

Title 20—Employees' Benefits  
CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regulations No. 5]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED (1965—.....)

Subpart M—Conditions for Coverage of Services of Independent Laboratories

Correction

In FR Doc. 74-21747 appearing at page 33690 in this issue of Thursday, September 19, 1974, in the first column on page 33692, the effective date now reading "October 21, 1971" should read "October 21, 1974".

CHAPTER V—MANPOWER ADMINISTRATION, DEPARTMENT OF LABOR

PART 625—DISASTER UNEMPLOYMENT ASSISTANCE

Implementation of Disaster Relief Act of 1974

Pursuant to the Disaster Relief Act of 1974, Pub. L. 93-288, 88 Stat. 143, which repealed section 240 of the Disaster Relief Act of 1970, Pub. L. 91-606, 84 Stat. 1744, 1755, and made changes in the terms and conditions for the payment of disaster unemployment assistance to individuals unemployed as a result of a major disaster declared by the President pursuant to the Act, Part 625 is revised and readopted to facilitate the implementation of the Act at the earliest possible date.

In order to accomplish the purpose of implementing the Disaster Relief Act of 1974 at the earliest possible date only minimal changes in Part 625 are made in this document, with the intention that a complete revision of Part 625, which shall include any changes resulting from the evaluation of comments received on this document, will be undertaken and published as soon as the revision can be finished.

Revisions to Part 625 in this document include minor conforming and technical changes, such as to reflect new official designations and the address of the Associate Manpower Administrator for the Unemployment Insurance Service in Washington, D.C., and the following:

In § 625.1 referring to the Disaster Relief Act of 1974 and adding a savings clause retaining Part 625 as in effect on March 31, 1974, with respect to the application of the Disaster Relief Act of 1970 to major disasters declared prior to April 1, 1974.

In § 625.2(a) defining "Act" as the Disaster Relief Act of 1974.

In § 625.2(d), and in a number of the subsequent provisions of the regulation, adding a reference to the Canal Zone.

In § 625.2(f) redefining "Disaster assistance period" so as to accord with the one year period prescribed in the Disaster Relief Act of 1974.

In § 625.2(b) deleting the definition of "Subsequent disaster assistance period"

so that in connection with changes made in § 625.9 the duration of payments of disaster unemployment assistance shall accord with the Disaster Relief Act of 1974. Paragraphs (u) to (x) are relettered (t) to (w).

In § 625.7(b) changing the provisions governing the termination of eligibility for disaster unemployment assistance to accord with changes made in the Disaster Relief Act of 1974.

In § 625.9(a) (3) deleting the prescription of a weekly amount of \$10.00 payable in American Samoa and the Trust Territory of the Pacific Islands, and providing instead that the weekly amount shall approximate fifty per centum of the average weekly wage of the individuals in the major disaster area whose employment is affected by the major disaster, as agreed upon by the Assistant Regional Director for Manpower, Region IX (San Francisco) and the Federal Disaster Assistance Administration.

In § 625.9 deleting paragraphs (b) and (d) and relettering paragraph (c) as (b) so as to provide that the duration of payments of disaster unemployment assistance shall accord with the Disaster Relief Act of 1974.

In § 625.9(c) (relettered (b)) deleting the reference to the Automotive Products Trade Act of 1965 and substituting for the reference to the Manpower Development and Training Act of 1962 a reference to the Comprehensive Employment and Training Act of 1973.

In § 625.13 deleting paragraph (b) and the paragraph designation (a) preceding the paragraph in view of the criminal provisions prescribed in the Disaster Relief Act of 1974.

The regulation published herein shall be effective October 7, 1974.

As this regulation relates to public benefits it has been excepted from the application of the notice and comments provisions of the Administrative Procedure Act, 5 U.S.C. 553(a)(2). The policy of the Department of Labor, as stated in 29 CFR 2.7, is not to use this exception as a basis of not giving opportunity for notice and comment. In this case, however, declarations of major disasters have been issued, with respect to which the Disaster Relief Act of 1974 is applicable, and it is imperative that relief through payments of disaster unemployment assistance and the furnishing of reemployment assistance services be afforded to disaster victims as expeditiously as possible. Accordingly, I find that in order to effectuate promptly the purposes of the Disaster Relief Act of 1974, it is contrary to the public interest to delay the issuance of this regulation to the extent necessary for the preparation, receipt and evaluation of comments. Accordingly, it is not issued for comments prior to publication in its final form, notwithstanding the policy the Secretary issued as 29 CFR 2.7, and which I specifically override in this instance.

Nevertheless, although this regulation is being published in final form and is made effective immediately, it is the policy of the Department of Labor to

solicit and consider comments on its regulations. Accordingly, comments will be received just as though this document were a proposal, until November 11, 1974, after which the comments received will be evaluated and, if warranted, the regulation will be appropriately amended. Meanwhile, however, in the interest of expediting the program, this regulation shall remain in force until amended.

Interested persons are invited to submit comments, data or arguments to: Assistant Secretary for Manpower, United States Department of Labor, 601 "D" Street NW., Washington, D.C. 20213, to the attention of Lawrence E. Weatherford, Jr., Acting Associate Manpower Administrator for the Unemployment Insurance Service.

The regulation set forth below amends Title 20 by revising and readopting Part 625. The revised Part 625, which will be effective immediately, reads as follows:

Sec.	Purpose.
625.1	Definitions.
625.2	Announcement of major disaster.
625.3	Applications.
625.4	Employment services.
625.5	Interstate applications.
625.6	Eligibility.
625.7	Unemployment result of major disaster.
625.8	Amount.
625.9	Disclosure of information.
625.10	Determinations.
625.11	Reconsideration and review.
625.12	Overpayments.
625.13	Reports to the Secretary.
625.14	Inquiry.

**AUTHORITY:** Secs. 302(a) and 601 of the Disaster Relief Act of 1974, Pub. L. 93-288, 88 Stat. 143; E. O. 11795, 39 FR 25339; and the delegation of authority from the Secretary of Housing and Urban Development to the Secretary of Labor, effective August 5, 1974, 39 FR 33020. Interpret or apply sec. 407 of the Disaster Relief Act of 1974, 88 Stat. 150.

§ 625.1 Purpose.

(a) *Prompt assistance.* The regulation in this part is issued to carry out the purpose of section 407 of the Act to pay disaster unemployment assistance as promptly as possible to individuals unemployed as a result of a major disaster, and to provide reemployment assistance services to such individuals, in States in which the Governor has entered into an agreement with the Secretary for the purpose of section 407 of the Act.

(b) *Liberal construction.* The regulation in this part shall be liberally construed to carry out its purpose.

(c) *Savings clause.* The regulation in this part does not apply to applications, determinations, hearings, or other administrative or judicial proceedings under section 240 of the Disaster Relief Act of 1970, Pub. L. 91-606, 84 Stat. 1744, with respect to major disasters declared prior to April 1, 1974, and such applications, determinations, hearings, or other administrative or judicial proceedings shall remain subject to section 240 of the Disaster Relief Act of 1970 and the regulation in this part issued thereunder which was in effect on March 31, 1974.

### § 625.2 Definitions.

(a) "Act" means the Disaster Relief Act of 1974, Pub. L. 93-288, 88 Stat. 143.

(b) "Additional unemployment compensation" means cash benefits to individuals with respect to their unemployment totally financed by a State (except when paid pursuant to a Federal unemployment compensation law), in addition to regular unemployment compensation, payable under a State law or Federal unemployment compensation law, including 5 U.S.C. Chapter 85 and the Railroad Unemployment Insurance Act, by reason of conditions of high unemployment or by reason of other special factors, such as an individual's being in training with the approval of the State agency.

(c) "Announcement date" means the first date on which the Governor announces the availability of disaster unemployment assistance in the State, pursuant to § 625.3.

(d) "Applicable State law" means, with respect to an individual, the unemployment compensation law of the State in which the major disaster occurred as the result of which such individual became unemployed, except when the major disaster occurred in the Canal Zone, the Territory of Guam, American Samoa, or the Trust Territory of the Pacific Islands, in which case applicable State law means the Hawaii Employment Security Law.

(e) "Date the major disaster began" means the date specified for the purpose in the agreement between the Federal Disaster Assistance Administration and the Governor of the State in which the major disaster occurred, and communicated in writing by the Federal Disaster Assistance Administration to the U.S. Department of Labor.

(f) "Disaster assistance period" means the period beginning the first day of the week which includes the date the major disaster began and ending with the last week which begins prior to one year subsequent to the date the major disaster was declared.

(g) "Extended unemployment compensation" means cash benefits to individuals with respect to their unemployment, payable under provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, including extended unemployment compensation payable pursuant to 5 U.S.C. Chapter 85.

(h) "Governor" means the chief executive of any State.

(i) "Initial application" means the first application for disaster unemployment assistance filed by an individual subsequent to the announcement date of the major disaster as the result of which such individual became unemployed.

(j) "Major disaster" means a major disaster as determined by the President pursuant to section 301(b) of the Act.

(k) "Major disaster area" means the area identified as eligible for Federal assistance by the Federal Disaster Assistance Administration pursuant to a Presidential declaration of a major disaster.

(l) "Notification" means the written communication in which the President

notifies the Governor that a major disaster has been declared in his State.

(m) "Regular unemployment compensation" means cash benefits to individuals with respect to their unemployment, payable under any State law or Federal unemployment compensation law, including 5 U.S.C. Chapter 85 and the Railroad Unemployment Insurance Act, other than additional unemployment compensation and extended unemployment compensation.

(n) "Secretary" means the Secretary of Labor of the United States.

(o) "Self-employed individual" means an individual whose primary reliance for income is on his performance of services in his own business or on his own farm.

(p) "Self-employment" means services performed as a self-employed individual.

(q) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(r) "State agency" means, in all States except the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the agency administering the State law, and in the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands means the agency designated by the Governor in his agreement with the Secretary to carry out such provisions.

(s) "State law" means the unemployment compensation law of one of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands.

(t) "Suitable work" means the same as it does under the applicable State law.

(u) "Wages" means remuneration for services performed for another and net income for services performed in self-employment.

(v) "Week" means a week as defined in the applicable State law.

(w) "Week of unemployment" means, with respect to an individual, any week during which he performs no services and no wages are payable to him or he performs less than full-time work and the wages payable to him are less than 1½ times the amount of the disaster unemployment assistance payable to him for a week of total unemployment; except that a self-employed individual shall be deemed to have a week of unemployment even though he performs services or activities during such week if they are for the sole purpose of enabling him to resume his self-employment.

### § 625.3 Announcement of major disaster.

After the Governor of a State (who has signed an agreement with the Secretary for the payment of disaster unemployment assistance) receives a notification, he shall promptly announce through all available news media in the State, including newspapers, radio, and television, that individuals who are unemployed as the result of the major disaster may be entitled to disaster unemployment assistance; that they should file initial ap-

plications for disaster unemployment assistance as soon as possible, but not later than the 30th day after the announcement date; the beginning date of the disaster assistance period; and where they should go for information.

### § 625.4 Applications.

(a) (1) An initial application for disaster unemployment assistance shall be filed by an applicant within 30 days after the announcement date of the major disaster as the result of which the applicant became unemployed. But an initial application filed later (except as provided in subparagraph (2) of this paragraph) shall be accepted by the State agency and a determination made whether the applicant had good cause for the late filing. If the State agency determines that there was such good cause, the initial application shall be deemed to have been timely filed; otherwise the application will be rejected.

(2) No application shall be accepted by the State agency if it is filed after the expiration of one year from the announcement date of the major disaster as the result of which the applicant became unemployed.

(b) (1) Except as provided in subparagraph (2) of this paragraph, applications (including initial applications) shall be filed in person at a local employment office or a local claims office, as directed by the State agency, but in the Canal Zone, American Samoa, and the Trust Territory of the Pacific Islands such applications shall be filed in person at the office designated by the Governor.

(2) When the State agency finds that there is an emergency or that individuals are disabled or ill, applications (including initial applications) shall be filed at such times, in such places, and in such manner as directed by the State agency.

### § 625.5 Employment services.

Applicants for disaster unemployment assistance and all other individuals who are unemployed as a result of a major disaster shall be afforded employment services (including counseling and referrals to suitable work opportunities and suitable training) to assist them in obtaining suitable work as soon as possible.

### § 625.6 Interstate applications.

The interstate benefit payment plan shall apply, to the extent that it is appropriate, to individuals filing applications for disaster unemployment assistance whose unemployment is the result of a major disaster in a State but who because of the disaster are not in the State.

### § 625.7 Eligibility.

(a) Disaster unemployment assistance shall be payable under this regulation to an individual for a week of unemployment in a disaster assistance period if with respect to such week the individual:

(1) Has applied therefor as provided in § 625.4;

(2) Is found by the State agency to be unemployed as the result of a major disaster in a major disaster area as provided in § 625.8; and

(3) Is able to work and available for work within the meaning of the applicable State law, but this requirement shall be deemed to be met if the individual's inability to work or unavailability for work is the result of the major disaster.

(b) No disaster unemployment assistance shall be payable for any week of unemployment which begins after the end of a disaster assistance period, nor shall disaster unemployment assistance be payable to an individual after the week in which the individual is reemployed in a suitable position.

**§ 625.8 Unemployment result of major disaster.**

(a) The unemployment of an applicant shall be deemed to be the result of the major disaster in the major disaster area if:

(1) He worked for another as an employee in the major disaster area at the time of such major disaster and, due directly to the disaster, (i) he no longer has the job, or (ii) he cannot perform his job because of damage to his place of work or such other reasons as that necessary material, supplies, or personnel cannot reach his place of work, or (iii) he cannot reach his place of work;

(2) He lived in the major disaster area at the time of the major disaster and he cannot reach his place of work outside of such area as the result of damage to the means of transportation caused by the disaster;

(3) He was a self-employed individual in the major disaster area at the time of such major disaster and he cannot perform services in his business because of damage caused by the disaster to the place(s) where he performed such services or to the means of transportation so that he cannot reach such place(s), or because of such other reasons as that necessary material, supplies, or personnel cannot reach his place(s) of work.

(4) He was to begin working for another as an employee or in self-employment in the major disaster area when or after the major disaster began and can not do so as the result of the disaster;

(5) He had been unemployed at the time of the major disaster for a period of less than 10 weeks and is prevented from obtaining work in the major disaster area as the result of the disaster;

(6) He had completed his schooling or training for work no earlier than 10 weeks prior to the major disaster and is prevented from obtaining work in the major disaster area as the result of the disaster;

(7) He has become the head of a household and is seeking suitable work because the head of the household died as the result of the major disaster in the major disaster area; or

(8) He, on any other basis, is found by the State agency to be unemployed as the result of the major disaster in the major disaster area, in which case the

State agency shall notify the Associate Manpower Administrator for the Unemployment Insurance Service, Room 7000, Patrick Henry Building, 601 "D" Street NW., Washington, D.C. 20213, of the facts and the basis for its finding and shall obtain his approval before disaster unemployment assistance is paid to the individual.

(b) In connection with applications for disaster unemployment assistance for past weeks of unemployment, the criteria in paragraph (a) of this section for determining whether the applicants' unemployment was the result of a major disaster in the major disaster area shall be deemed to be written as to apply to such past weeks.

**§ 625.9 Amount.**

(a) *Weekly amount.* (1) In all States except the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands the disaster unemployment assistance payable to an applicant for a week of total unemployment shall be whichever of the following is the greater:

(i) The amount of the average weekly regular unemployment compensation payment (including allowances for dependents) in the State in which the major disaster occurred as the result of which the individual became unemployed, computed by dividing the amount of regular unemployment compensation for total unemployment paid by the State in the first four of the last five completed calendar quarters immediately preceding the quarter in which the disaster began, by the number of weeks of total unemployment for which regular unemployment compensation was paid in that period. The computed average, is not an exact dollar amount, shall be rounded to the next higher dollar.

(ii) The weekly amount he would have been entitled to under the State law for a week of total unemployment had his work and wages been included as employment and wages under such State law.

(2) In the Canal Zone and the Territory of Guam the disaster unemployment assistance payable to an applicant for a week of total unemployment shall be the average of the payments of regular unemployment compensation made by all States (except the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands) for weeks of total unemployment in the first four of the last five completed calendar quarters immediately preceding the quarter in which the disaster began.

(3) In American Samoa and the Trust Territory of the Pacific Islands the disaster unemployment assistance payable to an applicant for a week of total unemployment shall be an amount agreed upon by the Assistant Regional Director for Manpower for Region IX (San Francisco), and the Federal Disaster Assistance Administration, which, based on information available at the time of the disaster, shall approximate fifty per centum of the average weekly wage of the individuals in the major disaster area

whose employment was affected by the major disaster.

(b) *Deductions.* The disaster unemployment assistance payable to an applicant for a week shall be reduced by:

(1) The amount of any of the following that an applicant has received for the week or would receive for the week if he filed a claim or application therefor and took all procedural steps necessary under the appropriate law or insurance policy:

(i) Regular unemployment compensation, additional unemployment compensation, extended unemployment compensation, and any other unemployment compensation under a State or Federal unemployment compensation law, or

(ii) A trade readjustment allowance under the Trade Expansion Act of 1962, or

(iii) Any compensation or insurance from any source for loss of wages due to illness or disability, or

(iv) A supplemental unemployment benefit pursuant to a collective bargaining agreement, or

(v) A basic weekly allowance under section 111(a) of the Comprehensive Employment and Training Act of 1973, or

(vi) Private income protection insurance.

(vii) Any workmen's compensation by virtue of the death of the head of the household as the result of the major disaster in the major disaster area, prorated by weeks, if the applicant is within the provisions of § 625.8(a) (7).

(2) The amount of a retirement pension or annuity under a public or private retirement plan or system (including title II of the Social Security Act) prorated, where necessary, by weeks, but only if, and to the extent that, such amount would be deducted from unemployment compensation payable under the applicable State law.

(3) 75 percent of any wages in excess of \$5.00 payable to him with respect to such week.

**§ 625.10 Disclosure of information.**

Information obtained by a State agency in the administration of the disaster unemployment assistance program shall be kept confidential and may be disclosed only to the same extent and in the same manner as information obtained by such State agency in administering its State law, or in the case of a State that has no State law, to the same extent and in the same manner as information obtained by the State agency of Hawaii under the Hawaii Employment Security Law.

**§ 625.11 Determinations.**

(a) Upon the filing of an initial application the State agency shall determine an applicant's eligibility for disaster unemployment assistance and the amount payable to him for each week of unemployment which is due to the major disaster.

(b) The State agency shall give notice in writing to the applicant of any determination under paragraph (a) of this section and any subsequent determina-

tion denying or reducing the disaster unemployment assistance payable to him for a week. Such notice shall include a statement of his right to reconsideration or review, and the manner in which such reconsideration or review may be obtained, and if there has been a denial or reduction, the statement shall include the reasons for such denial or reduction. Notice of a determination shall be given to the applicant by delivering the notice to him personally or by mailing it to his last known address. Any information the applicant may receive as to his entitlement to disaster unemployment assistance prior to his receipt of this notice is not a determination and the applicant shall be so informed at the time he files his initial application.

#### § 625.12 Reconsideration and review.

(a) *States, except Virgin Islands, Canal Zone, Territory of Guam, American Samoa, and Trust Territory of the Pacific Islands.* Any determination by a State agency, other than that of the Virgin Islands, the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, made pursuant to § 625.11 may be reconsidered by the State agency and may be appealed by the applicant under the State law to the first stage State administrative appellate authority under the State's regular appellate procedures. Notice of the reconsidered determination or the decision on appeal, and the reasons therefor, shall be given to the applicant by delivering the notice to him personally or by mailing it to his last known address. Such notice shall contain information as to the applicant's right to review by the appropriate Assistant Regional Director for Manpower and the manner of obtaining such review, including the address of the Assistant Regional Director for Manpower. Notice of the decision on appeal shall be given also to the State agency and to the appropriate Assistant Regional Director for Manpower.

(b) *Virgin Islands.* In the case of an appeal by an applicant from a determination by the State agency of the Virgin Islands, the applicant shall be entitled to a hearing and decision in accordance with the procedures set forth in §§ 609.34-609.45 of this chapter by a referee appointed by the Secretary. Notice of the referee's decision, and the reasons therefor, shall be given to the applicant by delivering the notice to him personally or by mailing it to his last known address. Such notice shall contain information as to the applicant's right to review by the Assistant Regional Director for Manpower for Region II (New York) and the manner of obtaining such review, including the address of the Assistant Regional Director for Manpower. Notice of the decision on appeal shall be given also to the State agency and to the Assistant Regional Director for Manpower.

(c) *Canal Zone, Territory of Guam, American Samoa, and Trust Territory of the Pacific Islands.* In the case of an appeal by an applicant from a determination by the State agency of the Canal

Zone, the Territory of Guam, American Samoa, or the Trust Territory of the Pacific Islands, the applicant shall be entitled to a hearing and decision in accordance with the procedures set forth in §§ 609.34-609.45 of this chapter by a referee appointed by the Secretary. Notice of the referee's decision, and the reasons therefor, shall be given to the applicant by delivering the notice to him personally or by mailing it to his last known address. Such notice shall contain information as to the applicant's right to review by the Assistant Regional Director for Manpower for Region IX (San Francisco) and the manner of obtaining such review, including the address of the Assistant Regional Director for Manpower. Notice of the decision on appeal shall be given also to the State agency and to the Assistant Regional Director for Manpower.

(d) *Review by Assistant Regional Director for Manpower.* The appropriate Assistant Regional Director for Manpower, upon request for review by an applicant or a State agency, shall, or upon his own motion may, review a decision rendered pursuant to paragraph (a), (b), or (c) of this section. Any request to the Assistant Regional Director for Manpower by an applicant or a State agency shall be filed, and any review by the Assistant Regional Director for Manpower on his own motion shall be undertaken, within 15 days after notice of the decision rendered pursuant to paragraph (a), (b), or (c) of this section has been given. A request for review by an applicant shall be filed through the appropriate State agency for transmittal to the Assistant Regional Director for Manpower for the region in which the State is located. A request for review by the State agency shall be filed with the Assistant Regional Director for Manpower and a copy shall be mailed promptly to the applicant at his last known address. When an Assistant Regional Director for Manpower undertakes a review on his own motion he shall promptly so notify by mail, the applicant at his last known address, and the State agency. Upon receipt of a request for review by an applicant or the State agency, or when the Assistant Regional Director for Manpower so requests, the State agency shall forward the entire record to the Assistant Regional Director for Manpower. The decision of the Assistant Regional Director for Manpower shall be rendered within 15 days after receipt of the record from the State agency and notice of such decision shall be mailed promptly to the last known address of the applicant and to the State agency. The decision of the Assistant Regional Director for Manpower shall be final and conclusive.

#### § 625.13 Overpayments.

If a State agency finds, after affording an applicant a reasonable opportunity for a fair hearing, that he has been paid disaster unemployment assistance to which he is not entitled, such applicant shall be liable to repay such

amount to the State agency. The State agency shall take such measures as it believes appropriate to recover such amount including deductions from any future disaster unemployment assistance payable to such applicant.

#### § 625.14 Reports to the Secretary.

In addition to such other reports as may be required by the Secretary, within 60 days after all payments of disaster unemployment assistance as the result of a major disaster in the State have been made the State agency shall submit a report to the Secretary. This report shall contain a narrative summary, a chronological list of significant events, pertinent statistics about the disaster unemployment assistance provided to disaster victims, brief statements of major problems encountered, discussion of lessons learned, and suggestions for improvement of the program during future major disasters.

#### § 625.15 Inquiry.

Pursuant to Article IV of the agreement between the several States and the Secretary for the payment of disaster unemployment assistance, the Secretary shall, if there is evidence that a State agency may not have complied or is not complying with the agreement, this regulation, or instructions issued pursuant to this regulation, direct an inquiry to be made to determine the facts and a report thereon to be made to him. Upon receipt of the report the Secretary shall take such action as he deems to be appropriate in the circumstances.

Signed at Washington, D.C., this 7th day of October 1974.

PETER J. BRENNAN,  
Secretary of Labor.

[FR Doc. 74-23816 Filed 10-10-74; 8:45 am]

### Title 21—Food and Drugs

#### CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[FRL 277-1]

#### PART 121—FOOD ADDITIVES

#### Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

##### ALUMINUM PHOSPHIDE

A petition (FAP 2H2665) was filed by TRW/Hazleton Laboratories, 9200 Leesburg Pike, Vienna, VA 22180, on behalf of Phostoxin Sales, Inc. (formerly Hollywood Termite Control Co.), 2221 Poplar Boulevard, Alhambra, CA 91803, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348), proposing that § 121.281 Aluminum phosphide (21 CFR § 121.281) be revised (1) to permit direct contact, by fumigation, of the formulation containing aluminum phosphide with processed animal feeds and (2) to increase the tolerance for phosphine in or on animal feeds resulting from the fumigation of these feeds with aluminum phosphide from 0.01 to 0.1 part per million. (For a re-